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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**

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KIMBERLY KNIGHT, an individual and TIMOTHY LUPTON, an individual,) Case No.: 2:14-cv-1256
Plaintiffs,) <u>COMPLAINT</u>
v.) JURY TRIAL DEMANDED
NICK ROCK, an individual,)
Defendant.)

16 Plaintiffs, Kimberly Knight and Timothy Lupton (the "Plaintiffs") allege as follows:

17 **JURISDICTION AND VENUE**

18 1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
19 1331 (federal question) and 28 U.S.C. 1338(a) and (b) (original jurisdiction for copyright
20 matters) as it is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C.
21 §§ 101 *et seq.*

22 2. Upon information and belief, this Court has personal jurisdiction over Matthew
23 Rock because said Defendant purposefully directed activities to this Judicial District by (i)
24 willfully infringing the copyright of a resident of this Judicial District and (ii) distributing and/or
25 making available Plaintiffs' copyrighted works to residents of this Judicial District.

26 3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

27 **PARTIES**

28 4. Plaintiff Kimberly Knight is an individual residing in Clark County, Nevada.

5. Plaintiff Timothy Lupton is an individual who formerly resided in Clark County, Nevada.

6. Upon information and belief, Defendant Nick Rock ("Defendant" or "Rock") is an individual residing in California.

NATURE OF THE CASE

7. This action arises out of Rock's unauthorized copying, reproduction and distribution of Plaintiffs' copyrighted videos. Plaintiffs' action is for direct and contributory copyright infringement. Plaintiffs are seeking actual damages, an award of attorneys' fees and costs, and preliminary and permanent injunctive relief.

ALLEGATIONS COMMON TO ALL CLAIMS

8. Plaintiffs are professional directors and videographers in the adult entertainment industry and the authors of numerous niche fetish videos with surprising popularity.

9. Plaintiffs' videos were created by them as freelance videographers and therefore they are not only the creator of such videos, but also are the owner of all right, title, and interest in the worldwide copyright to such videos. The videos which are the subject of this litigation have been registered with the U.S. Copyright Office and are subject to the following U.S. copyright registrations (hereinafter the "Registered Videos"):

<u>Registration No.</u>	<u>Video</u>
PA0001793518	addisonbimboHC_w.wmv
PA0001790407	cambry-bugbimboBE_w.mp4
PA0001786105	alison-strokerBE_w.mp4
PA0001786105	bridgetASSBE_w.wmv
PA0001783469	daphneplaidBE_w.wmv
PA0001785019	holly-bigboobniteBE_w.mp4
PA0001783633	honey-divaringBE_w.mp4
PA0001786239	joselynpinkBE_w.wmv
PA0001793518	All She Has Ever Wanted.mp4

1	PA0001787866	Anna's Busting Expansion.wmv
2	PA0001786105	Basement Bimbo.mp4
3	PA0001783468	Bella Likes Breast Expansion.wmv
4	PA0001786132	BIG and Heading to The Boardwalk.wmv
5	PA0001787580	Big Boob Baby Shower.wmv
6	PA0001774679	Big Boobie Night Nyomi Bank.wmv
7	PA0001786239	Big Boobie Night Sara Jay.avi
8	PA0001787580	Blond Brunettes - Sheila.wmv
9	PA0001787580	Blond Brunettes - Zoey.wmv
10	PA0001779018	Bustin Loose.wmv
11	PA0001786239	Cherry Poppins.wmv
12	PA0001785982	Coveting Inflatables.wmv
13	PA0001786105	Crystal Ashley's Overeating WG BE.wmv
14	PA0001786105	Crystal Whiteâ€™s New Years BE.wmv
15	PA0001783438	Daphne is Loving Expansion.wmv
16	PA0001783566	Daphne Rosen, Mind Control & Boobs E
17	PA0001779011	Double BE Spells.wmv
18	PA0001785889	Dream Big 2.wmv
19	PA0001779012	Even Young Girls Get The Boobs.wmv
20	PA0001779012	Faucet Addict.wmv
21	PA0001786132	harleyBE_w.wmv
22	PA0001786132	Holly Anna's Playtime Thrills.wmv
23	PA0001779014	Holly's Breast & Belly Inflation.wmv
24	PA0001785898	Hooters Daydream.wmv
25	PA0001779013	I think I'm Allergic To That Soap.wmv
26	PA0001785962	I'll Have What She Was Having.wmv
27	PA0001785960	Jenna Sees The Light.wmv
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1	PAu003686452	Jessie's Expansive Journey.mp4
2	PA0001786239	Lilith BE Terror.wmv
3	PA0001786239	Luscious Cherry.wmv
4	PA0001786239	Mondo Hypno Breast Expansion.wmv
5	PA0001783633	Office Tension.wmv
6	PA0001786239	rubyBE_w.wmv
7	PA0001787580	Star's Growth Envy Part 2.wmv
8	PA0001785889	The Good The Bad & The Busty.wmv
9	PA0001785019	The Realities Of Breast Expansion.wmv
10	PA0001785856	The Very Special Present.wmv
11	PA0001787580	Tiffany Mynx Balloon Burst BE.wmv
12	PA0001786132	Tory Lane Breast Expansion.wmv
13	PA0001786239	Veronica Rayne's Breast Expansion Desires.wmv
14	PA0001787580	Veronica's New Figure.wmv
15	PA0001785960	Jenna's Amazing Ass Expansion.wmv
16	PA0001785960	Jenna's Belly Inflation.wmv
17	PA0001803590	Sybil's Big Belly Revenge.mp4
18	PA0001786105	Basement Bimbo.mp4
19	PA0001783566	Daphne Rosen, Mind Control & BoobsExpanding.wmv
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21 10. Upon information and belief, Rock, copied, without permission Plaintiffs'
 22 Registered Videos.

23 11. Upon information and belief, Rock copied Plaintiffs' Registered Videos with the
 24 intent of distributing the videos over the internet.

25 12. Upon information and belief, Rock distributed Plaintiff's Registered Videos
 26 using multiple services including the GigaTribe network.

27 13. Upon information and belief, GigaTribe is peer to peer software where users
 28 distribute content on their computers to others.

14. Upon information and belief, Rock promoted his infringing distribution by posting on various websites including www.gigatribe.com.

FIRST CLAIM FOR RELIEF

(Copyright Infringement)

15. Plaintiffs repeat and re-allege each and every allegation set forth in this complaint as if set forth here in full.

16. Rock has infringed Plaintiffs' copyrights in the Registered Videos by reproducing, copying, distributing and/or facilitating the public display of the Registered Videos without authorization in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Plaintiffs have not granted to Rock any license or consent to copy, distribute, display for others, or otherwise exploit the intellectual property protected under Plaintiffs' copyrights in Plaintiffs' Registered Videos.

18. Each infringement by Rock in and to Plaintiffs' Registered Videos constitutes a separate and direct act of infringement.

19. Rock's acts of infringement have been knowing and willful, in disregard of, and with indifference to Plaintiffs' copyright rights in the Registered Videos.

20. As a direct and proximate result of Rock's infringing conduct, Plaintiffs have sustained and will continue to sustain actual damages. Plaintiffs are entitled to damages pursuant to 17 U.S.C. § 504(b) for all direct infringements.

21. Plaintiffs are additionally entitled to their costs pursuant to 17 U.S.C. § 505.

22. Plaintiffs are additionally entitled to an award of attorneys' fees for any infringements by Rock occurring on or after the effective date of registration of the Registered Videos pursuant to 17 U.S.C. § 505.

23. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs have sustained and, unless the relief sought herein is provided, will continue to sustain substantial, immediate, and irreparable injury, for which Plaintiffs have no adequate remedy at law, and unless enjoined and restrained by this Court, Rock will continue to infringe Plaintiffs'

1 copyrights in the Registered Videos. Plaintiffs are entitled to preliminary and permanent
2 injunctive relief, pursuant to 17 U.S.C. § 502.

SECOND CLAIM FOR RELIEF

(Contributory Copyright Infringement)

5 24. Plaintiffs repeat and re-allege each and every allegation set forth in this
6 complaint as if set forth here in full.

7 25. Upon information and belief, Rock made available Plaintiffs' Registered Videos
8 for copying and distribution through use of peer to peer software.

9 26. Upon information and belief, Rock knew that making available Plaintiffs'
10 Registered Videos on peer to peer software would induce, cause, or materially contribute to the
11 copyright infringement of Plaintiffs' Registered Videos.

12 27. Upon information and belief, Rock is liable for contributory copyright
13 infringement as he knowingly induced, caused, or materially contributed to the infringing
14 conduct of others.

15 28. By enabling, causing, facilitating, materially contributing to and encouraging the
16 unauthorized distribution, public performance and public display of unauthorized copies of
17 Plaintiffs' Registered Videos in the manner described above, with full knowledge of the
18 illegality of such conduct, Rock has and continues to contribute to and induce widespread
19 infringement of Plaintiffs' Registered Videos in violation of 17 U.S.C. § 501.

20 29. Upon information and belief, videos originating from Rock have widely
21 propagated throughout the internet. Each infringing copy or other distribution of a video
22 originating from Rock constitutes a separate contributory act of infringement.

23 30. Rock's contributory acts of infringement have been at all relevant times knowing
24 and willful, in disregard of and with indifference to Plaintiff's copyright rights in the Registered
25 Videos.

26 31. As a direct and proximate result of Rock's contributory infringing conduct,
27 Plaintiffs have sustained and will continue to sustain actual damages for the ongoing distribution
28 and copying of Plaintiffs' Copyright Videos originating from Rock. Plaintiffs are entitled to

1 damages pursuant to 17 U.S.C. § 504(b) for all contributory infringements.

2 32. Plaintiffs are additionally entitled to their costs pursuant to 17 U.S.C. § 505.

3 33. Plaintiffs are additionally entitled to an award of attorneys' fees for any
4 infringements contributed to by Rock occurring on or after the effective date of registration of
5 the Registered Videos pursuant to 17 U.S.C. § 505.

6 34. As a direct and proximate result of the foregoing acts and conduct, Plaintiffs
7 have sustained and, unless the relief sought herein is provided, will continue to sustain
8 substantial, immediate, and irreparable injury, for which Plaintiffs have no adequate remedy at
9 law, and unless enjoined and restrained by this Court, Rock will continue to infringe Plaintiffs'
10 copyrights in the Registered Videos. Plaintiffs are entitled to preliminary and permanent
11 injunctive relief, pursuant to 17 U.S.C. § 502.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment against Rock as follows:

14 a) That Rock be ordered pay to Plaintiffs actual damages arising from Rock's
15 actions complained of herein and all of Rock's gains, profits, savings, and
16 advantages realized by Rock;

17 b) For a preliminary and a permanent injunction enjoining Rock and any respective
18 agents, servants, employees, officers, members, successors, licensees and
19 assigns, and all persons acting in concert or participation with each or any of
20 them, from: (i) directly or indirectly reproducing, copying, adapting, displaying,
21 selling, using or otherwise infringing in any manner any of the Registered Videos
22 and (ii) causing, facilitating or participating in the infringement of any of the
23 Registered Videos;

24 c) For any and all further injunctive relief that this Court may deem just and proper
25 under the circumstances of this case;

26 d) For an award of Plaintiffs' costs in litigating this matter, including, where
27 applicable, an award of a reasonable attorney's fees, pursuant to 17 U.S.C. § 505;

28 e) For interest at the maximum rate allowed by law; and

1 f) For all other relief to which Plaintiffs are entitled and such other and further
2 relief as this Court may deem just and proper.

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4 **JURY TRIAL DEMANDED**

5 Plaintiff hereby demands a trial by jury on all issues raised in Plaintiff's Complaint
6 which are triable by a jury.

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8 DATED this 31st day of July, 2014.

9 Respectfully Submitted,

10 **BORGHESE LEGAL, LTD.**

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12 _____
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